A Strategic Assessment of the Roles of Electoral Management Board (E.M.B) in Electoral Reforms

By

Young J. LUKE, *Ph.D*
Department of Business Management
Faculty of Business Administration
University of Birmingham
United Kingdom

ABSTRACT

Electoral reform is a broad term that covers, among other things, improving the responsiveness of electoral processes to public desires and expectations. However, not all electoral change can be considered electoral reform. Electoral change can only be referred to as reform if its primary goal is to improve electoral processes. The simultaneous implementation of major reforms in a range of different areas can place a great burden on an EMB, and will increase the risk of suboptimal implementation, especially when deadlines are tight. While sound implementation has the potential to meet intended targets, and hopefully to build confidence and trust in the effectiveness of elections and the EMB, failed implementation can have the opposite effect. This will be especially problematic if reforms are pursued without strong political support across the board; opponents of a particular initiative are likely be looking for opportunities to characterize it as a failure, and to push for its abandonment. Reforms to electoral processes may be triggered by a failure to deliver acceptable elections or by conflict resulting from disputed elections. Unless an EMB maintains a process for reviewing its administrative strategies, policies, procedures and practices, it will become less effective, as it will have no mechanism to deal with change in its legal, stakeholder, technological, financial and social environments.

KEYWORDS: Electoral Management Board, Implementation, Electoral Reforms

Introduction

Electoral reform is a broad term that covers, among other things, improving the responsiveness of electoral processes to public desires and expectations. However, not all electoral change can be considered electoral reform. Electoral change can only be referred to as reform if its primary goal is to improve electoral processes, for example, through fostering enhanced impartiality, inclusiveness, transparency, integrity or accuracy. AAEA (2005). However, this distinction is not always clear in practice: some changes (e.g. US proposals to require voters to produce identity documents at polling stations) may be characterized as desirable or even necessary 'reforms' by their proponents, but as improper 'manipulation' by their opponents. Random and/or frequent electoral change, while it may be reformist, can also be confusing to voters, and thus defeat its purpose. Frequent change may also negatively affect the sustainability of an EMB's operations.

According to Beramendi, (2008), purported electoral reforms have also often had unanticipated consequences, either in the short or long terms, which have wholly or partially negated their anticipated benefits. Such a situation may arise due to poor design or implementation,

or because the reforms give rise to opportunities for parties or candidates to manipulate the system to their advantage.

Concept of Electoral Reform

Electoral reform often only catches the public eye when it involves changes to representational arrangements, such as electoral systems, but it is a much broader concept than this. Stated in Bibler, Mohan, & Ryan, (2014), there are three distinct areas of electoral reform; an EMB and its stakeholders may play different roles in each:

Legal: involving the amendment of the constitution, electoral law, and/ or related rules and regulations to enhance the integrity, relevance and adequacy of the legal framework within which the EMB delivers its services. This may include institutional reform of the EMB itself.

Administrative: the introduction within an EMB of new strategies, structures, policies, procedures and technical innovations to enable it to implement its legal responsibilities and deliver its services more efficiently, effectively and sustainably. These could include policies and practices on issues such as procurement, financial integrity or employment (such as gender balance in the recruitment of EMB staff); making informed voting accessible to groups such as women, those living in remote areas and the physically impaired; or introducing new technology for services such as voting, voter registration or electoral logistics.

Political: changes that take place in the political environment within which an EMB operates, such as giving it more autonomy or creating a more effective and transparent framework for its funding and accountability.

The most dramatic examples of reform according to Lehoucq, (2003), involve a previously non-democratic country introducing democratic electoral processes (e.g. Indonesia's transition to open, multiparty electoral democracy in 1998–99). In such situations, reform in all three areas (legal, administrative and political) tends to take place at the same time, often under tight time constraints, and with no single player driving, and taking a holistic view of, the overall reform process.

According to Norris, (2014), since the mid-1980s, there have been substantial structural and procedural changes in the way elections are conducted around the world, such as the growing numbers of independent and permanent EMBs and the increasing use of new technologies to deliver electoral services. Electoral reform has often been part of a package of general democratization initiatives. However, many countries that previously enjoyed general satisfaction with their long-standing framework and style of electoral administration have also undertaken substantial reforms. Examples include the introduction of an independent EMB and significantly wider access to voting in Australia in 1984; the introduction of a new independent body with electoral functions, and a radically different electoral system, in New Zealand in 1993 (followed by a further consolidation and enhancement of the EMB's functions, completed in 2012); changes in Sweden in 2001 to create a more independent electoral administration; and the establishment of an independent electoral commission in Tonga in 2010.

The internationalization of electoral frameworks and administration continues to place countries under pressure to introduce electoral reform measures. The relatively recent development of generally acknowledged principles for free, fair and credible elections, and of global and regional obligations for electoral administration, have created yardsticks by which each country's electoral

processes and administration can be assessed. More problematically, countries are sometimes encouraged or even pressured to introduce processes, such as a civil register, which are not rooted in basic principles of freedom and fairness, but rather in the preferences of external advisers or election observers.

Reforms to electoral processes may be triggered by a failure to deliver acceptable elections or by conflict resulting from disputed elections. Where countries are dependent on international donor contributions, funds may be linked to the implementation of electoral reforms, as in Liberia. Even where there is no such explicit linkage, the injection of donor funds may tend to make arguments for electoral reform more compelling. Financial constraints requiring electoral resources to be used more sustainably and effectively have had a significant bearing on administrative electoral reforms (Norris, 2015).

The increasingly widespread and expert independent and political party observation of elections has produced many well-documented assessments of electoral performance and recommended reforms—for example, in connection with Nigeria's post-2003 elections and with numerous elections observed by ANFREL (Rosas, 2010). Civil society and the media have become more aware of electoral rights and related international obligations. International observation of and technical assistance to elections in emerging democracies can also have an effect in the mature democracies. While governments have initiated many electoral reforms, at times in response to societal or external pressures, EMBs themselves have often been powerful motivators of such changes. More widespread public accountability and transparency of EMBs—a significant reform in itself—has had a multiplier effect on further electoral reform. Materials supporting electoral reforms have emerged from EMBs' increasing use of election audits and the advocacy activities of CSOs and other stakeholders.

The Scope of Electoral Reform

As opined by Spinelli, (2011), a significant area of electoral reform is the nature and structure of the institutions engaged in electoral management or delivering electoral services. Reforms in this area may enhance the independence of the EMB—for example, by adopting Independent Model electoral management in countries such as Bhutan and Tonga, or a Mixed Model as in Timor-Leste. Electoral responsibilities may be reassigned among existing and/or new bodies to promote better service delivery—as in New Zealand, Sweden and the UK. In Sweden, the EMB itself initiated the reform of electoral management. In Indonesia in 1998–99 and in the UK, the government initiated the reforms. Pressure from local civil society or international groups may also instigate the reform of electoral management arrangements, as in Georgia and Liberia.

Reforms of electoral processes, such as the introduction of a new electoral system, may have a broad effect on an EMB's strategies, policies and procedures. They may target key electoral issues such as electoral participation and representation, the delimitation of electoral districts, voter registration, the registration and oversight of political parties, and improving electoral integrity. They may also target specific technical or technological aspects of the electoral process, such as introducing new procurement or employment processes, voter registration systems, or voting and vote-counting systems. They may involve social policies, such as reducing a gender imbalance in representation, improving access to electoral processes for marginalized sectors of society or improving the representativeness of the EMB's staff (Struwig, Roberts, & Vivier, 2011).

Electoral system reform, as in Indonesia, Papua New Guinea and New Zealand, is one of the most far-reaching reforms in election administration. It is often the result of a functional need, for example, of perceptions of an 'unfairness' in representation or of government ineffectiveness or lack of responsiveness. In 2003 Indonesia changed its electoral system from closed-list proportional representation (PR) in very large electoral districts to open-list PR in small electoral districts in order to address perceived deficiencies in the links between voters and representatives, while maintaining the consensus nature of Indonesian governance. Electoral system reform places a substantial information responsibility on the EMB, and may require it to implement new methods of electoral district boundary delimitation, voting and vote counting.

According to Tokaji, (2009), the process of registering electors has attracted many efforts at modernization in both emerging and established democracies. Voter registration determines the ability of eligible voters to participate in an election, and thus is a key element of the fairness of an election. As it generally occurs well before election-day, and often outside the direct scrutiny of observers (especially where electoral registers are derived from civil or population registers), the internal integrity of voter registration systems needs to be very high. Reforms have increasingly targeted the efficiency, as well as the integrity, of voter registration processes. They have often included the introduction of biometric data capture and processing, with the stated aim of decreasing the scope for multiple registration, voter impersonation and/or multiple voting.

There have been significant reforms in the role played by EMBs in monitoring and regulating the activities of political parties. Some are the consequences of legal reforms targeted at levelling the playing field for political competition—for example, reforms in the administration of state funding of political parties and candidates' election campaigns, and the qualifications for registering parties and candidates to contest elections. Others have been targeted at improving oversight of campaign contributions and expenditures, and the internal democracy of political parties—such as oversight of candidate selection processes. Reforms to promote a level playing field for elections have also given some EMBs the responsibility of administering or monitoring arrangements that require the media to allocate campaign advertising opportunities equitably.

According to Tuccinardi (2014), a growing number of EMBs are introducing new voting methods. Brazil, India, Bhutan and Venezuela have replaced manual voting with EVMs, while Estonia has introduced Internet voting. There have been significant efforts to make electoral participation more accessible. Access to voter registration has sometimes been opened to those who are out of the country, of no fixed abode or in prison. Access to polling has been widened for many people through the introduction of in-person absentee, postal or pre-poll (early) voting, including for voters who are out of the country, and by providing special voting and voter information facilities for refugees, internally displaced persons, the disabled, the aged and those in remote areas, in prison or in hospital. EMBs have had to respond to all these reforms by introducing procedures and systems that enable the additional access while maintaining high integrity in the voter registration, voting and counting processes. Internet voting is the subject of much current research, and poses a challenge to EMBs that might be contemplating its adoption, since the skill sets required to manage such a process are radically different from those typically found in EMBs that manage traditional voting methods.

It should be noted that reforms that give rise to a proliferation of different voting methods, or more generally to a range of different modalities for performing a particular function, tend to be more challenging for an EMB than ones that simply update a single mechanism to a different single

mechanism. Reform of electoral access has attempted in some countries to provide equal access for specific societal groups and for women. Such reforms may well have to be pursued in a complementary way in the legal, administrative and political areas. EMBs can promote equitable access by insisting on it in their own staffing, for example by requiring gender balance in temporary staffing for polling stations, and using internal professional development programs to ensure that women advance into EMB management positions.

Managing Electoral Change

According to UNDP (2005), electoral change management requirements will depend on the extent of the reform and the specific electoral processes involved. Changes to the model of the EMB—for example, from a Governmental to an Independent Model—require particularly careful planning to ensure a smooth transition and the retention of skills and institutional memory. It is crucial that changes to electoral structures and frameworks are agreed long enough before electoral events to allow for the preparation of new materials and the effective implementation of training.

Especially where the process of change applies to the nature or structure and staff of an EMB, it is essential to appoint a skilled manager and communicator to oversee and implement the changes. Changing organizational structures and individual roles within structures will inevitably create tension. Noted in Tokaji, (2009), transparency, honesty, serious consultation, communication and adequate forewarning are essential elements of managing personnel through electoral change. Timing is also critical. EMB staff have skills and knowledge that may be difficult to replace, especially close to an election date. Involving EMB members in change management demonstrates the EMB's commitment to reforms.

Reforming electoral technical processes may require the help of experts who specialize in particular technical areas. In implementing technical reforms, an EMB needs to ensure that the right procedural and system specifications have been chosen and correctly implemented. Thorough development review processes and pre-implementation testing are essential. The change management process also needs to include measurable indicators to evaluate the implementation of the electoral reforms, and clear responsibilities for reporting on indicators and improving performance if any indicator is not achieved.

Risks Associated with Electoral Reform

Where a country's electoral processes are proceeding reasonably well, risk generally tends to be minimized by the incremental pursuit of electoral reform, making small changes over a period of several elections. The simultaneous implementation of major reforms in a range of different areas can place a great burden on an EMB, and will increase the risk of suboptimal implementation, especially when deadlines are tight. While sound implementation has the potential to meet intended targets, and hopefully to build confidence and trust in the effectiveness of elections and the EMB, failed implementation can have the opposite effect. This will be especially problematic if reforms are pursued without strong political support across the board; opponents of a particular initiative are likely be looking for opportunities to characterize it as a failure, and to push for its abandonment.

There are three main risks inherent in reform processes. Van Aaken, (2009):

The first is that of trying to solve the wrong problem. For example, there will be little benefit for a country to invest heavily in a technologically sophisticated voter registration system if the real problem is that the polling officials are intimidated, suborned, or corrupted by parties or candidates, making the quality of the register itself largely irrelevant. Where a country's electoral culture is truly dire, there may be little to gain from massive investment in technology, since even if it works it may simply displace fraud from one area of the system to another. Major reforms, especially those involving technological innovation, can be very expensive, particularly when factors such as long-term maintenance costs and depreciation are taken into account. The task of setting up such systems can easily overwhelm even a well-established and resourced organization, placing massive demands on the time of senior management and potentially drawing attention away from other problem areas that, judged objectively, may be more deserving of priority attention.

A second risk is that of making unrealistic assumptions about non-technical matters on which the success of a system depends. For example, a database intended to be used to maintain a continuously updated register of voters may fail to live up to expectations if there is no way of ensuring the constant flow of data required to keep the database up to date.

A third risk is a loss of agility. A decision to adopt a specific technological approach may well lock a country or organization into maintaining a way of dealing with a problem that will be difficult, or increasingly expensive, to sustain in the long run. For example, organizations that invested heavily in Internet-based processes, not just in the electoral field, are now finding that they are having to retool their PC-based systems to make them readily accessible from smartphones and tablets, as consumers' preferred ways of accessing the Internet change.

Failing E.M. B's

Many EMBs fail to discharge their mandate in line with accepted regional or international obligations. According to Van Ham, & Staffan (2015), while there are no comprehensive data on the reasons for EMB failure, studies of individual EMBs have noted a number of internal causes, including:

1. Lack of stakeholder confidence in the EMB;

2. Government and/or political influence on EMB decisions;

3. A partisan approach by the EMB or its members;

4. A lack of EMB professionalism, or a loss over time of certain critical skills; and

5. EMB incompetence or financial impropriety.

In other cases, the reasons for an EMB's failure are outside its control, for example, having to implement an electoral system that produces results that are not acceptable to major stakeholders, as in Lesotho in the 1990s. Alternatively, there may be deficiencies in the legal framework. In Papua New Guinea since 2002, the extensive shortcomings of the electoral process have mainly been due to the broader political environment, in particular a culture of impunity in relation to electoral offences.

Except where the entire political system is failing, electoral reform—of the EMB itself and/or of the broader electoral framework—may be able to save future electoral processes from failure. Notable examples of this are Mexico and South Africa in the 1990s.

The E.M. B's Role in Electoral Reforms

While the EMB has a key role to play in all electoral reform, it may not be in a position to implement reform without the support of its key stakeholders—particularly the government, legislature and political parties. This is a significant reason for EMBs to maintain a strong relationship with their stakeholders.

Noted in Wall, Andrew, Ayman, Carl, Dundas, & Sara (2006), an EMB can only implement legal reform within the established legal framework agreed by the government and legislature. However, an EMB may have a key research, review and advocacy role in promoting electoral legal reform, which can be guided by the criteria detailed in International IDEA's publication *International Obligations for Elections: Guidelines for Legal Frameworks.* Electoral legal reform can be assisted by establishing an appropriate permanent body of the legislature to monitor electoral activities and recommend electoral reforms to the government. Effective legal electoral reform depends on a multiparty approach in the legislature that subordinates political advantage to ethical electoral principles and good practice.

An EMB has more control over the implementation of administrative reforms, and can implement them more effectively, if it formally adopts a continuous review and reform process within its management policies. However, legal and administrative reforms often need to be synchronized to optimize their effectiveness. In Australia, for example, while the EMB has modernized its election procedures extensively, reform of the election machinery has not kept pace. Political and legal reform issues related to electoral processes are often strongly associated. As with legal reform, EMBs do not control political reform, although again they can play a research and advocacy role, and cultivate support among key stakeholders.

Key steps for an EMB to consider in proposing and implementing electoral reforms according to Beramendi, (2008), include:

- assigning responsibilities to specific members or staff, including at the senior level, for the development, advocacy and implementation of electoral reforms;
- implementing effective processes, including post-electoral audits and evaluations, for reviewing the electoral framework and implementing electoral processes;
- consulting with stakeholders to ascertain their views on required reforms and to enlist their support for the EMB's reform program;
- making submissions to the government and legislature on desired electoral reforms;
- publicizing desired electoral reforms through the media and use of stakeholder networks;
- developing an electoral reform implementation strategy; and
- Evaluating the effects of electoral reforms.

One challenge for EMBs is building up the skill base needed to drive electoral reforms. Well-established bodies typically have staff with a strong understanding of their existing processes. While they may be equipped to propose useful incremental improvements, unless they also have a sound knowledge of electoral fundamentals, they may be less well placed to imagine and elaborate the more radical reforms that are sometimes needed.

EMBs plays a significant role in reform of electoral district boundary delimitation, for example as advocates of more transparent and equitable boundary delimitation processes; by providing expert opinions on boundary delimitation issues; and by ensuring that they exercise any responsibilities for boundary delimitation impartially, equitably and with integrity. Some electoral reforms have introduced multi-member districts, as this type of system, usually based on PR, can decrease the influence of electoral boundaries on election results (Norris, 2014). Other reforms have required boundary delimitations based on 'one person, one vote, and one value'. Some reforms attempt to make boundary delimitation processes more transparent and objective, for example by excluding the legislature from the delimitation process, placing an independent body in charge of delimitation, and requiring open hearings and independent review of proposed boundaries.

Many EMBs have implemented systems to improve the inclusiveness, fairness, accuracy and transparency of voter registration, for example, by providing for continuously updated voter registration, special registration provisions for transient voters, and safeguards against the wrongful rejection of a registration or removal from the electoral register. EMBs and other agencies responsible for maintaining data from which electoral registers are derived are improving the integrity of electoral registers by using better methods to check the identity of qualified persons and reducing data processing times, often using modern technological solutions. EMBs need to ensure that technological solutions for voter registration enjoy citizens' trust and are sustainable, especially in emerging democracies where EMBs may have uncertain levels of future financial support (Rosas, 2010).

Conclusion

1. Electoral reforms are changes targeted at improving implementation of the guiding principles of electoral administration.
2. Electoral reforms may be directed at the electoral legal framework— including the EMB— the administrative and technical processes of electoral management, or the political context for electoral activities.
3. EMBs have vital roles as advocates of electoral reforms in general, as implementers of institutional reforms, and as initiators and implementers of administrative reforms, including technical reforms.

Recommendations

1. No aspect of electoral frameworks, systems, institutions, planning, management or operations is immune from reform or modernization. EMBs need to have a clear strategy for developing or responding to and implementing electoral reforms.
2. Electoral reform needs to be carefully managed to ensure that it fulfils its purpose without confusing electors and with minimal disruption to electoral administration.

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